

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 05-11761-RCL

ROBERT DOWNER and
NANCY DOWNER,

Plaintiff,

v.

TOWN OF BURLINGTON, ROBERT
MERCIER, individually and in his capacity as
Town Manager, FRANCIS HART,
individually and in his capacity as Chief of
Police, and HARRY SAWYER,

Defendants.

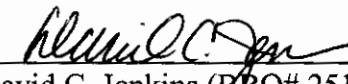
DEFENDANTS' MOTION TO
DISMISS COMPLAINT

Now come the Defendants, Town of Burlington (hereinafter, "the Town"), Robert Mercier (hereinafter, "Mercier"), Francis Hart (hereinafter, "Hart"), and Harry Sawyer (hereinafter, "Sawyer"), collectively "the Defendants," and hereby move this Honorable Court to dismiss the Complaint in its entirety.

As grounds for this motion, the Defendants assert that the Complaint fails to state a claim for which relief may be granted, as more particularly set forth in the accompanying memorandum of law.

WHEREFORE, the Defendants move that the Complaint be dismissed in its entirety.

DEFENDANTS,
TOWN OF BURLINGTON, ROBERT
MERCIER, FRANCIS HART, and HARRY
SAWYER,
By their attorneys,



David C. Jenkins (BBO# 251000)
Brian M. Maser (BBO# 655667)
Kopelman and Paige, P.C.
31 St. James Avenue
Boston, MA 02116
(617) 556-0007

Date: November 28, 2005

266650/METG/0651

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the
above document was served upon the
attorney of record for each other party
by mail hand on 11-24-05

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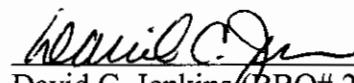
v.

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LOCAL RULE 7.1(A)(2)
CERTIFICATE OF COMPLIANCE

Now comes the undersigned defense counsel, and hereby certifies that on November 28, 2005, he conferred, via telephone, with counsel for the plaintiffs in a good faith effort to resolve or narrow the issues set forth in Defendants' Motion To Dismiss.



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